

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #16	CCRB Case #: 201605768	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input type="checkbox"/> Injury
Incident Date(s) Monday, 07/04/2016 9:30 PM	Location of Incident: § 87(2)(b) 75th Precinct stationhouse		Precinct: 75	18 Mo. SOL 1/4/2018	EO SOL 1/4/2018
Date/Time CV Reported Mon, 07/04/2016 11:43 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 07/04/2016 11:43 PM		

[illegible]

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			075 PCT
2. POM Michael Ardolino	03101	951507	075 PCT
3. POM Juan Morales	07010	952033	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Ardolino	Abuse: Police Officer Michael Ardolino entered and searched § 87(2)(b) in Brooklyn.	
B.POM Juan Morales	Abuse: Police Officer Juan Morales entered and searched § 87(2)(b) in Brooklyn.	
C.POM Juan Morales	Force: At § 87(2)(b) in Brooklyn, Police Officer Juan Morales pointed his gun at § 87(2)(b)	
D.POM Juan Morales	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Juan Morales spoke discourteously to § 87(2)(b)	
E.POM Michael Ardolino	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Michael Ardolino spoke discourteously to § 87(2)(b) and individuals.	

Officer(s)	Allegation	Investigator Recommendation
F.POM Michael Ardolino	Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Ardolino struck § 87(2)(b) with a radio.	
G.POM Michael Ardolino	Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Ardolino used physical force against § 87(2)(b) § 87(2)(b)	
H. Officers	Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(b)	
I. Officers	Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(b)	
J. Officers	Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(b)	
K.POM Michael Ardolino	Force: At the 75th Precinct stationhouse, Police Officer Michael Ardolino used physical force against § 87(2)(b) § 87(2)(b)	

Case Summary

On July 4, 2016, Sgt. Henry Daverin of the 75th Precinct filed this complaint with IAB via telephone on behalf of two injured prisoners, § 87(2)(b) and § 87(2)(b). This complaint was forwarded to the CCRB via IAB log #2016-24116 on July 14, 2016. On July 4, 2016, § 87(2)(b) filed a duplicate complaint with the CCRB via telephone on behalf of herself and her mother § 87(2)(b) and her nephew § 87(2)(b). On July 5, 2016, § 87(2)(b) filed another duplicate complaint with the CCRB via telephone on behalf of herself. On July 7, 2016, § 87(2)(b) also filed a duplicate complaint with the CCRB. He did not identify any additional victims. On July 8, 2016, § 87(2)(b) filed a duplicate complaint with the CCRB via telephone. He identified § 87(2)(b) and § 87(2)(b) as additional victims.

On July 4, 2016, § 87(2)(b) hosted a large holiday gathering for her extended family at her home at § 87(2)(b), in Brooklyn. A large number of these relatives, including her grandson § 87(2)(b) were standing outside of the house. At approximately 9:30 p.m., PO Michael Ardolino and PO Juan Morales of the 75th Precinct drove by the house in an unmarked vehicle. The officers exited their vehicle and approached the group on foot. § 87(2)(b) turned away from the officers and entered the interior of § 87(2)(b). PO Ardolino and PO Morales chased § 87(2)(b) into the residence (**Allegations A and B**). Once inside, PO Morales pointed his gun at § 87(2)(b) and told him, “Put your fucking hands up” (**Allegations C and D**). PO Ardolino then asked him, “What the fuck did you go in the house for?” When several other relatives approached the officers, PO Ardolino told them, “Back the fuck up” (**Allegation E**). PO Ardolino then struck § 87(2)(b) in the face with a radio (**Allegation F**). He pushed § 87(2)(b) to the floor and punched him several times on the back (**Allegation G**). § 87(2)(b) was subsequently arrested and removed from the building.

As § 87(2)(b) was being removed from the building, several additional officers arrived to back up PO Ardolino and PO Morales. Several of these officers used unspecified force against other civilians, including § 87(2)(b) and § 87(2)(b) (**Allegation H, I and J**). After § 87(2)(b) was transported to the 75th Precinct stationhouse, PO Ardolino pushed and repeatedly poked § 87(2)(b) on the forehead while questioning him (**Allegation K**).

Two short cell phone videos taken inside of § 87(2)(b) were obtained from IAB. One was recorded by the mother of § 87(2)(b)'s child, § 87(2)(b). The other was taken by an unidentified individual (See Board Review #1-2: Video Evidence).



201605768 - IAB Video 1.MOV



201605768 - IAB Video 2.3gpp

This case is 163 days old as of December 15, 2016. § 87(2)(g)

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case is ineligible for mediation due to several arrests.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving [§ 87(2)(b)] (See Board Review #4: Civilian CCRB Histories).
- PO Ardolino has been a member of the service for four years and there are two substantiated CCRB allegations against him.
 - In case #201502623, a refusal to provide name and/or shield number allegation was substantiated against him. He was given Command Discipline A.
 - In case #201506191, a discourtesy (word) allegation was substantiated against him. He received instructions.

- PO Ardolino has been the subject of thirty-four allegations in six cases. Of three previous entry allegations against him, two were closed as unsubstantiated, and one was closed as exonerated. Of two previous discourtesy allegations, one was closed as substantiated, and another was closed as unsubstantiated. Of seven force allegations, two were closed as unfounded. The remaining five are currently under investigation.
- PO Morales has been a member of the service for four years and there are no substantiated allegations against him. He has been the subject of seven allegations in five cases. These are the first entry and gun point allegations against him. One previous discourtesy allegation against him was closed as complaint withdrawn.

Potential Issues

- Through the numerous duplicates received, the investigation identified twelve civilians who were either complaining witnesses or victims of allegations. Of these individuals, four stated that they were uninterested in providing statements to the CCRB due to a pending lawsuit that the § 87(2)(b) family is filing: § 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) both of whom were arrested during the incident, declined to provide statements as well, citing pending criminal cases. Each of these individuals was informed that the investigation may be truncated without a statement from them. They were also told that if they wished to re-open the complaint in the future, they could submit a written request to the CCRB.
- A December 13, 2016 search of the NYC Department of Correction's online inmate database showed that none of the remaining civilians, including any members of the § 87(2)(b) family, are currently incarcerated.
- § 87(2)(b) was identified as one of the victims. His address and telephone number was obtained from his arrest report. During a first telephone call on July 12, 2016, he confirmed his contact information, but stated that he did not have time to schedule an interview or provide a statement. Between July 12, 2016 and August 1, 2016, six follow-up telephone calls were made to § 87(2)(b). Messages were left on each call. Please-call letters were mailed to him on July 12, 2016, July 21, 2016 and July 28, 2016. None were returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts.
- § 87(2)(b) identified herself as a victim and her § 87(2)(b) -year-old son § 87(2)(b) as a witness. She provided her address and telephone number during her initial complaint. During an initial telephone call on July 8, 2016 § 87(2)(b) scheduled an interview for herself and § 87(2)(b) on July 14, 2016, but both failed to appear. Neither called ahead to cancel or reschedule. Between July 14, 2016 and August 1, 2016, six additional telephone calls were made to § 87(2)(b). Messages were left on each call. Missed-appointment letters were mailed to her on July 21, 2016 and July 28, 2016. Neither was returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts.

- In addition to the above individuals, the investigation identified three additional civilians who were the victims of allegations: § 87(2)(b) and § 87(2)(b). None of these individuals had filed previous complaints with the CCRB. They therefore had no previous contact information on file in the CTS databases. Lexis Nexis, CLEAR, and BADS searches were conducted for each individual to obtain their contact information. No contact information was found for § 87(2)(b). Addresses were found for § 87(2)(b) and § 87(2)(b). A telephone number was found for § 87(2)(b) but it was found to be out of service. Please-call letters were also sent to them on July 12, 2016, July 28, 2016 and August 4, 2016. None of these letters was returned to the CCRB by the US Postal Service. To date, none of these civilians have responded to these contact attempts.
- During his interview, § 87(2)(b) identified the mother of his child, § 87(2)(b) as a witness. He provided her telephone number and address. During a first telephone call on August 30, 2016, § 87(2)(b) confirmed her contact information. She provided a partial telephone statement before disengaging the call. Between August 30, 2016 and September 15, 2016, five follow-up calls were made to § 87(2)(b). Please-call letters were sent to her on September 1, and September 15, 2016. Neither was returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts.
- § 87(2)(b) provided a statement via video teleconference on August 22, 2016. During this statement, § 87(2)(b) was informed that a verification form would be mailed to him with a return envelope. § 87(2)(b) agreed to fill the form out, have it notarized, and then return it by mail. He was warned that his statement would not be considered to be sworn testimony until the verification form was received. The relevant form, along with instructions on how to fill them out, was mailed to § 87(2)(b) on September 1, 2016. During a follow-up video teleconference on September 22, 2016, § 87(2)(b) confirmed that he had received the form, completed it, and returned it via mail. On September 28, 2016, the forms were received at the CCRB. § 87(2)(b) had not had the verification form notarized as instructed. On September 30, 2016, an investigator from the CCRB Field Team visited § 87(2)(b) at the § 87(2)(b) on Rikers Island to have him fill the form out directly. The investigator who obtained the statement, however, was not a commissioner of deeds, and was therefore unable to formally verify the contents of the form. When the Field Team attempted to schedule a second visit to § 87(2)(b) on Rikers Island on October 4, 2016, it was found that § 87(2)(b) had been transferred to § 87(2)(b). On November 4, 2016, a second copy of the verification form was mailed to § 87(2)(b) at the § 87(2)(b) along with a return envelope and instructions on how to fill the form out. To date, § 87(2)(b)'s verification form has not been received. On November 30, 2016 and December 12, 2016, telephone calls were made to § 87(2)(b)'s counselor, § 87(2)(b), to confirm if § 87(2)(b) received the form. § 87(2)(b) did not know on either occasion whether § 87(2)(b) received it.

- § 87(2)(b) was initially arrested for consuming alcohol from an open container under the name “§ 87(2)(b).” Afterwards, he was arrested again for false personation under the name § 87(2)(b) (See Board Review: Arrest Reports). During a follow-up interview, § 87(2)(b) denied that he identified himself as “§ 87(2)(b)” at any time during the incident. After the interview, § 87(2)(b) completed a medical release form allowing the CCRB to obtain copies of his medical records. § 87(2)(b) prepared this form using the name § 87(2)(b). A subpoena was sent to § 87(2)(b). On October 19, 2016, a representative of § 87(2)(b) stated that they were unable to locate any records for an individual named § 87(2)(b) on § 87(2)(b). She confirmed that there were records for an individual named “§ 87(2)(b)” on that date, but that she could not release these records unless she received a medical release form completed by an individual by that name. Since § 87(2)(b) denied using that name during the incident, a medical release form could not be obtained for the § 87(2)(b) records. Consequently, § 87(2)(b)s medical records could not be obtained.

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority: Stop** - PO Ardolino stated that he initially approached § 87(2)(b) in order to issue him a summons for consuming alcohol from an open container in public. § 87(2)(g)
- **Force: Physical Force** - § 87(2)(b) alleged that PO Morales punched § 87(2)(b) several times during the struggle inside of § 87(2)(b). § 87(2)(b) himself, however, stated that only PO Ardolino struck him, and that PO Morales instead told PO Ardolino to ease off of him. § 87(2)(g)

Identification of Subject Officers

Several of the complainants alleged that officers used force against several other individuals at § 87(2)(b) beyond § 87(2)(b) including § 87(2)(b) and § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) witnessed any of these allegations, and were consequently unable to identify or describe them. None of the other civilians, including complainants, victims and witnesses, provided statements to the CCRB. Of the civilians who filed complaints with the CCRB, only § 87(2)(b) provided identifying information for an officer. She described one of the officers present during the incident as a 5’6” tall white male in his forties with the shield number “613.” This shield number corresponds to Sgt. Timothy Cecchini of the 75th Precinct. She did not, however, attribute any specific actions to Sgt. Cecchini. While PO Ardolino and PO Morales were aware of officers struggling with multiple individuals at § 87(2)(b), they did not witness these struggles, and did not know which officers were involved in them. They both denied using force against any civilians beyond § 87(2)(b).

§ 87(2)(g)

Allegation A –Abuse of Authority: Police Officer Michael Ardolino entered § 87(2)(b) in Brooklyn.

Allegation B –Abuse of Authority: Police Officer Juan Morales entered § 87(2)(b) in Brooklyn.

It is undisputed that a group of civilians was gathered outside of § 87(2)(b), and that several were carrying cups containing beverages. It is also undisputed that § 87(2)(b) left the group upon the arrival of the officers and entered § 87(2)(b) and went into a bathroom. PO Ardolino and PO Morales followed § 87(2)(b) inside and placed him under arrest. § 87(2)(b)'s pursuit was not recorded in either video clip.

§ 87(2)(b) was interviewed at the § 87(2)(b) on Rikers Island via video teleconference on August 22, 2016. He also answered several follow-up questions during a second video teleconference on September 22, 2016 (See Board Review #5-6: § 87(2)(b)'s Statements). While § 87(2)(b) stated that there were bottles containing alcoholic beverages outside of § 87(2)(b), he denied that he or any of his relatives outside were consuming it. § 87(2)(b) was holding a cup that contained soda. As he stood outside, PO Ardolino and PO Morales drove up in an unmarked car. When the officers exited their vehicle, § 87(2)(b) turned and jogged back into § 87(2)(b). He initially stated that he went inside because he needed to go to the bathroom, but later stated that he also left because he was on parole at the time, and did not want to have any trouble with the police. § 87(2)(b) threw his cup to the ground as he went. Neither officer made any effort to stop him from leaving. § 87(2)(b) initially stated that the officers followed him inside immediately, but later stated that they did not enter the house until about a minute later. He did not know what the officers did outside of the house before entering. § 87(2)(b) went into a bathroom. While inside, he heard his relatives and the two officers shouting. When he opened the bathroom door, he found that both officers were standing in the hallway outside. The two officers then placed § 87(2)(b) under arrest. § 87(2)(b) did not have a weapon with him at the time. After his arrest, PO Ardolino accused § 87(2)(b) of making some sort of gestures to the officers that indicated that he was carrying a gun. § 87(2)(b) denied making any gestures towards the officers at any point.

§ 87(2)(b) provided a brief telephone statement on August 30, 2016 (See Board Review #7: § 87(2)(b)'s Statement). § 87(2)(b) also stated that many of the people standing outside of § 87(2)(b) had beverages with them, but denied that these were alcoholic beverages. Before the officers arrived, both § 87(2)(b) and § 87(2)(b) had gone into the house. About two minutes after they went inside, PO Ardolino and PO Morales ran into the building. § 87(2)(b) had not interacted with the officers outside. § 87(2)(b) was in the bathroom at the time. When he exited, the two officers grabbed § 87(2)(b) and placed him under arrest. § 87(2)(b) made no mention of § 87(2)(b) being armed at the time of the incident. She did not mention § 87(2)(b) making any gestures or motions towards the officers at any time.

PO Ardolino was interviewed at the CCRB on October 12, 2016 (See Board Review #8: PO Ardolino's Statement). At the time of the incident, PO Ardolino was on patrol in uniform in an unmarked black sedan. He stated that he observed the crowd by § 87(2)(b), including § 87(2)(b) drinking in front of the house. He observed several open liquor bottles around the

civilians, including at least one bottle of cognac. § 87(2)(b) was drinking from a cup that he was holding in his hand. PO Ardolino exited his vehicle, intending to issue summonses to the group. He did not discuss this course of action with PO Morales beforehand. PO Ardolino also noted that § 87(2)(b) was standing in front of an unidentified house located directly next to § 87(2)(b). This house's windows were boarded up, leading PO Ardolino to conclude that it was abandoned. When asked why he approached § 87(2)(b) first among all of the individuals who were drinking outside, PO Ardolino stated that there was "no rhyme or reason" for this decision. PO Ardolino told § 87(2)(b) to stop as he approached. When he moved towards § 87(2)(b) however, § 87(2)(b) reached towards his waistband and grasped an unidentified object that was tucked underneath his shirt. PO Ardolino did not see the object, and could not describe its appearance. The object did not create any bulge or outline on § 87(2)(b)'s clothing. PO Ardolino did not know if the object was attached to § 87(2)(b)'s waistband, and did not recall which side of § 87(2)(b)'s waistband the object was situated on. § 87(2)(b) did not remove the item, and was instead holding it at his side. Based upon the object's position on § 87(2)(b)'s body, PO Ardolino suspected that it was a firearm. After § 87(2)(b) gripped the object, he ran into § 87(2)(b). PO Ardolino ran after him immediately, following at a distance of about ten feet. PO Ardolino explained that he chased § 87(2)(b) into the building so that he could arrest him for the open container violation. He also noted that he suspected that § 87(2)(b) might have had a gun, due to the object by his waistband, and that he might have been trespassing, due to his presence by the abandoned building. PO Ardolino was not aware of any officers, including himself, searching for or recovering a firearm during the incident. After § 87(2)(b)'s arrest, however, § 87(2)(b) told PO Ardolino that he had fled because he had had a gun at the time.

PO Morales was interviewed at the CCRB on October 24, 2016 (See Board Review #9: PO Morales' Statement). He confirmed that he and PO Ardolino were on patrol in uniform while riding in an unmarked sedan. As the officers were driving on § 87(2)(b), PO Morales also observed the group outside of § 87(2)(b) consuming beverages next to at least one bottle of liquor. He also stated that several of the people outside were standing on the front porch of the abandoned building next door. PO Morales felt that the civilians were guilty of publicly consuming alcohol, and may also have been guilty of trespassing due to their presence on the porch. When the officers stopped in front of § 87(2)(b), PO Ardolino immediately exited the vehicle and ran towards § 87(2)(b). § 87(2)(b) also turned and ran into § 87(2)(b). PO Morales did not know why PO Ardolino had run after § 87(2)(b) specifically. He also did not recall if § 87(2)(b) started to run before PO Ardolino, or vice-versa. PO Morales was not aware of § 87(2)(b) engaging in any additional criminal activities apart from the rest of the group. He did not suspect that § 87(2)(b) was carrying a weapon at that time. When § 87(2)(b) entered the building, PO Ardolino followed. PO Morales in turn followed PO Ardolino inside in order to back him up and support him. PO Morales did not recall the exact distance between § 87(2)(b) and PO Ardolino during the pursuit, but stated that it was short. He did not ultimately learn why PO Ardolino chased § 87(2)(b) into the building.

The most recent image of § 87(2)(b) and the surrounding buildings available on Google Street View is from October 2014 (See Board Review #10: Photograph of § 87(2)(b)).
§ 87(2)(g)

§ 87(2)(g)

The police are prohibited from entering a private resident to make an arrest without a warrant. Exceptions to this requirement may be made when exigent circumstances exist. One example of an exigent circumstance is a “hot pursuit” where the police actively pursue a suspect who is in the process of fleeing from a recently committed crime. For there to be a hot pursuit, the police must have probable cause of criminal activity. This exception to the warrant requirement only applies to police pursuit into a residence for felony charges. People v. Cruz, 41 Misc. 3d 1222(A) (Crim. Ct. Bronx Cty., 2013) (See Board Review #11: Legal Reference).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C –Force: Police Officer Juan Morales pointed his gun at § 87(2)(b)

It is undisputed that PO Morales drew his gun inside of § 87(2)(b) after pursuing § 87(2)(b) inside. While this action was not recorded in either video, the videos do show the environment inside of § 87(2)(b). In it, a large crowd of shouting civilians can be seen standing within feet of PO Morales and PO Ardolino as they struggled with § 87(2)(b) (See Board Review #1-2: Video Footage).

§ 87(2)(b) alleged that when he exited the bathroom, PO Morales was standing in the hallway outside. He pointed the gun directly at § 87(2)(b) and told him to put his hands up. § 87(2)(b) also stated that one of the officers had a gun drawn when he entered the house, but did not recall which officer it was. Both confirmed that there were a large number of people gathered at the location at the time.

PO Morales stated that drew his gun after entering § 87(2)(b). He did so because there were a large number of civilians surrounding him, and he was concerned that one of them might have tried to pull the gun from his waist if he was not holding it himself. PO Morales denied pointing the gun at § 87(2)(b) or any other individuals, stating that the gun remained pointed at the floor until it was re-holstered. No civilian made any effort to take PO Morales' gun at any time.

Officers are permitted to display their weapons when they feel that their lives or the lives of others are endangered. PD v. Gliner, OATH Index #955/00 (2000) (See Board Review #12: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation D –Discourtesy: Police Officer Juan Morales spoke discourteously to § 87(2)(b)

[REDACTED]

One of the two cell phone videos of the incident shows PO Morales' interaction with § 87(2)(b) after he was arrested (See Board Review #1: Video Footage). In it, PO Morales can be heard at 0:04 telling § 87(2)(b) "You didn't have to do this. You did not have to do this. It's a bullshit ticket and you're going to come running in the house like this, for what?"

§ 87(2)(b) made no mention of this statement in his testimony. He did state, however, that when the officers entered § 87(2)(b), PO Morales told him, “Put your fucking hands up!” PO Morales and PO Ardolino both denied that PO Morales used profanity. When PO Morales was shown the above footage, he confirmed that he is the officer heard shouting at § 87(2)(b). When asked why he used profanity while addressing § 87(2)(b), PO Morales stated that he used profanity because he was engaged in a stressful situation. He also explained that the “bullshit ticket” that he referred to in the video likely referred to the public consumption of alcohol offense. After viewing the video, neither PO Morales nor PO Ardolino recalled any other times during the incident where profanity was used towards any civilians.

According to NYPD Patrol Guide procedure 203-09, officers are to be courteous and respectful when dealing with the public. The courts have held that the limited use of profanity, when used to maintain order in a stressful street encounter, does not constitute misconduct. NYPD v. White, OATH Index 78667/03 (See Board Review #13-14: Legal Reference).

§ 87(2)(g)
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Allegation E –Discourtesy: Police Officer Michael Ardolino spoke discourteously to § 87(2)(b) and individuals.

§ 87(2)(b) alleged that when the officers approached him inside of § 87(2)(b), PO Ardolino asked him, “What the fuck did you go in the house for?” When § 87(2)(b)'s relatives gathered around him, PO Ardolino told them, “Back the fuck up.” § 87(2)(b) also stated that one of the two officers told the civilians, “Back the fuck up.” She did not recall which officer made this statement. Both PO Morales and PO Ardolino denied that PO Ardolino used any profanity towards the civilians at any time. PO Ardolino is not heard using profanity in either of the videos.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).

Allegation F –Force: Police Officer Michael Ardolino struck § 87(2)(b) with a radio.
Allegation G –Force: Police Officer Michael Ardolino used physical force against § 87(2)(b)

It is undisputed that after PO Ardolino and PO Morales approached § 87(2)(b) in the bathroom, § 87(2)(b) fell to the floor. This caused a laceration above § 87(2)(b)'s left eye. While he was on the floor, PO Ardolino punched him at least once on his torso. § 87(2)(b) was then placed in handcuffs. This action was not recorded in either video clip. The second video, however, shows the immediate aftermath of this action, beginning with § 87(2)(b) lying on the

ground (Board Review #2: Video Footage). § 87(2)(b)'s injury can be seen at 00:41 on the video.

§ 87(2)(b) stated that when the officers approached him in § 87(2)(b), PO Ardolino struck him once on the left side of his face. § 87(2)(b) was unable to tell if PO Ardolino punched him or struck him with an implement. PO Ardolino then pushed § 87(2)(b) to the floor, where he landed on his side. PO Ardolino leaned down and placed his knee on top of § 87(2)(b)'s back. He then punched § 87(2)(b) six times on his back. § 87(2)(b) denied making any movements or offering any resistance to PO Ardolino.

§ 87(2)(b) stated that when PO Ardolino approached § 87(2)(b) he drew his radio and struck § 87(2)(b) two or three times on his ribs. § 87(2)(b) made no mention of § 87(2)(b) being taken to the ground. She made no mention of PO Ardolino punching § 87(2)(b) at any time. She denied that § 87(2)(b) offered any kind of resistance to the officers.

PO Ardolino stated that when he and PO Morales found § 87(2)(b) in the bathroom, § 87(2)(b) tried to push them away and run past them. He did not recall where on their bodies § 87(2)(b) pushed. He also flailed his arms at his side. Both officers attempted to grab § 87(2)(b)'s arms to pull them behind his back. PO Ardolino initially stated that § 87(2)(b) was then deliberately taken to the ground. He later stated that § 87(2)(b) fell to the ground accidentally when he tried to run past the officers. The officers resumed trying to pull § 87(2)(b)'s arms behind his back while he was on the floor. § 87(2)(b) continued to resist, now by alternately flailing his arms at his side and holding his arms in a rigid manner against his torso. PO Ardolino punched § 87(2)(b) once on his back in order to force him to comply with the officers. This was the only time he or any other officer struck § 87(2)(b). Eventually, PO Ardolino and PO Morales were able to pull § 87(2)(b)'s arms from behind his back and place him in handcuffs. No additional force was used against § 87(2)(b) after that. When PO Ardolino was shown the video footage depicting § 87(2)(b)'s injury, he stated that he did not recall seeing § 87(2)(b) in that condition.

PO Morales stated that when he and PO Ardolino reached § 87(2)(b) in the bathroom, PO Morales at first reached for § 87(2)(b)'s waistband in an effort to frisk him for any weapons. § 87(2)(b) prevented him from doing so by pushing PO Morales' arms away. PO Morales grabbed § 87(2)(b)'s arms to hold them in place. He did not see what PO Ardolino did at the time, but denied that PO Ardolino struck § 87(2)(b) either with a fist or with an object. § 87(2)(b) then fell to the floor in the hallway. PO Morales did not know if he fell accidentally or was deliberately taken to the floor by him or PO Ardolino. This action caused an injury to § 87(2)(b)'s face, but PO Morales did not recall the nature of the injury. PO Morales did not recall what, if any, action PO Ardolino took towards § 87(2)(b) while he was on the ground. When PO Morales was shown the video footage depicting § 87(2)(b)'s injury, he stated that he did not recall seeing § 87(2)(b) in that condition.

As discussed earlier, the investigation was unable to obtain § 87(2)(b)'s medical records due to the fact that he was treated at the hospital under a false name. § 87(2)(b)'s arrest photograph does not show any significant injuries to his face (See Board Review #15: Arrest Photograph).

NYPD Patrol Guide procedure 221-11 states that officers may use the reasonable force necessary to gain control or custody of a subject (See Board Review #16: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED].

Allegation H –Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)

Allegation I –Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)

Allegation J –Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)

During his interview, § 87(2)(b) mentioned that he was aware of officers engaging in struggles with several civilians, including § 87(2)(b). He did not observe any of these interactions himself. Several of the other complainants identified additional individuals whom officers allegedly used force against. § 87(2)(b) stated that officers used force against herself, § 87(2)(b) and § 87(2)(b). § 87(2)(b) identified these same individuals as victims, and further identified § 87(2)(b), § 87(2)(b) and § 87(2)(b) as victims. § 87(2)(b) also stated that an officer used force against her. None of these individuals provided accounts of the force used against them or any of the other victims. They did not describe or identify the officers who used this force.

While PO Ardolino and PO Morales were generally aware that several civilians besides § 87(2)(b) were arrested, they themselves did not witness officers use force against any of the other civilians. They denied using force themselves against any civilians besides § 87(2)(b).

§ 87(2)(g)
[REDACTED]

Allegation K –Force: At the 75th Precinct stationhouse, Police Officer Michael Ardolino used physical force against § 87(2)(b)

§ 87(2)(b) alleged in his initial interview that after he was transported to the 75th Precinct stationhouse, PO Ardolino spoke to him inside of the holding cell area. While there were other prisoners in the room at the time, § 87(2)(b) and PO Ardolino were standing in a section of the room that was not within the prisoners’ line of sight. PO Ardolino accused § 87(2)(b) of carrying a gun, and of providing a false name to the police. § 87(2)(b) denied both accusations. PO Ardolino then punched § 87(2)(b) once on the left side of his face. This action caused § 87(2)(b) to start bleeding from his mouth.

In his subsequent statement, § 87(2)(b) initially repeated his claim that PO Ardolino struck him. Later, however, he stated that PO Ardolino had actually “mushed” him on the head. When asked to explain this action in further detail, § 87(2)(b) stated that during their conversation, PO Ardolino had repeatedly poked him several times on his forehead to emphasize his words. PO Ardolino also placed his palm on § 87(2)(b)’s forehead and gave him a light push. This action did not cause any injuries to § 87(2)(b).

PO Ardolino confirmed that he spoke to § 87(2)(b) at the stationhouse, during which time § 87(2)(b) claimed that his name was “§ 87(2)(b).” PO Ardolino denied making any contact with § 87(2)(b) at that time, including pushing § 87(2)(b) away by his forehead. PO Morales did not witness any interaction between PO Ardolino and § 87(2)(b) at the stationhouse. He did not know if PO Ardolino made any physical contact with § 87(2)(b)’s face at the stationhouse.

§ 87(2)(g)

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Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

